

genuine and independent private choice of a beneficiary or through other indirect funding mechanisms, provided the religious organizations otherwise satisfy the requirements of the program. A religious organization may receive such funds as the result of a beneficiary's genuine and independent choice if, for example, a beneficiary redeems a voucher, coupon, or certificate, allowing the beneficiary to direct where funds are to be paid, or through a similar funding mechanism provided to that beneficiary and designed to give that beneficiary a choice among providers.

PART 90—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.

- 90.1 What is the purpose of the Age Discrimination Act of 1975?
- 90.2 What is the purpose of these regulations?
- 90.3 What programs or activities does the Age Discrimination Act of 1975 cover?
- 90.4 How are the terms in the regulations defined?

Subpart B—What is Age Discrimination?

STANDARDS FOR DETERMINING DISCRIMINATORY PRACTICES

- 90.11 Purpose of this subpart.
- 90.12 Rules against age discrimination.
- 90.13 Definitions of normal operation and statutory objective.
- 90.14 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.
- 90.15 Exceptions to the rules against age discrimination. Reasonable factors other than age.
- 90.16 Burden of proof.

Subpart C—What are the Responsibilities of the Federal Agencies?

- 90.31 Issuance of regulations.
- 90.32 Review of agency policies and administrative practices.
- 90.33 Interagency cooperation.
- 90.34 Agency reports.

Subpart D—Investigation, Conciliation and Enforcement Procedures

- 90.41 What is the purpose of this subpart?
- 90.42 What responsibilities do recipients and agencies have generally to ensure compliance with the Act?
- 90.43 What specific responsibilities do agencies and recipients have to ensure compliance with the Act?
- 90.44 Compliance reviews.
- 90.45 Information requirements.
- 90.46 Prohibition against intimidation or retaliation.
- 90.47 What further provisions must an agency make in order to enforce its regulations after an investigation indicates that a violation of the Act has been committed?
- 90.48 Alternate funds disbursement procedure.
- 90.49 Remedial and affirmative action by recipients.
- 90.50 Exhaustion of administrative remedies.

Subpart E—Future Review of Age Discrimination Regulations

- 90.61 Review of general regulations.
- 90.62 Review of agency regulations.

AUTHORITY: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*

SOURCE: 44 FR 33776, June 12, 1979, unless otherwise noted.

Subpart A—General

§ 90.1 What is the purpose of the Age Discrimination Act of 1975?

The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs or activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and these regulations.

[44 FR 33776, June 12, 1979, as amended at 70 FR 24321, May 9, 2005]

§ 90.2 What is the purpose of these regulations?

(a) The purpose of these regulations is to state general, government-wide rules for the implementation of the Age Discrimination Act of 1975, as amended, and to guide each agency in the preparation of agency-specific age discrimination regulations.

§ 90.3

(b) These regulations apply to each Federal agency which provides Federal financial assistance to any program or activity.

§ 90.3 What programs or activities does the Age Discrimination Act of 1975 cover?

(a) The Age Discrimination Act of 1975 applies to any program or activity receiving Federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 *et seq.*).

(b) The Age Discrimination Act of 1975 does not apply to:

(1) An age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 (CETA), (29 U.S.C. 801 *et seq.*).

§ 90.4 How are the terms in these regulations defined?

As used in these regulations, the term:

Act means the Age Discrimination Act of 1975, as amended, (Title III of Pub. L. 94-135).

Action means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

Age means how old a person is, or the number of elapsed years from the date of a person's birth.

Age distinction means any action using age or an age-related term.

Age-related term means a word or words which necessarily imply a particular age or range of ages (for exam-

45 CFR Subtitle A (10-1-07 Edition)

ple, *children, adult, older persons*, but not *student*).

Agency means a Federal department or agency that is empowered to extend financial assistance.

Federal financial assistance means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(a) Funds;

(b) Services of Federal personnel; or

(c) Real and personal property or any interest in or use of property, including:

(1) Transfers or leases of property for less than fair market value or for reduced consideration; and

(2) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

Program or activity means all of the operations of—

(a)(1) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(2) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(b)(1) A college, university, or other postsecondary institution, or a public system of higher education; or

(2) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(c)(1) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or